



## **Arlington Conservation Commission**

Date: January 6, 2022

Time: 7:30 pm

Location: Conducted by Remote Participation (Zoom)

D. Morgan read the preamble into the record.

Attendance: Commission Members Susan Chapnick (Chair), Chuck Tirone (Vice Chair), Mike Gildesgame, Pam Heidell, Dave Kaplan (joined at 8:45), Nathaniel Stevens, David White. Associate Commissioners Cathy Garnett and Doug Kilgour. Conservation Agent David Morgan. Members of the public included Rich Kirby (LEC), Paul Feldman, Mike Novak (Patriot Engineering), Michael Maggiore, Jo Ann Preston, Wynelle Evans, Don Setzler, Kristen Anderson, Patricia Worden

### **Agenda**

#### **I. Administrative**

##### **1. Minutes Review**

D. Morgan reviewed edits to the meeting minutes of December 16, 2021.

N. Stevens motioned to approve the December 16, 2021, meeting minutes, P. Heidell seconded. A roll call vote was taken: S. Chapnick – yes, P. Heidell - yes, C. Tirone - yes, D. White - yes, N. Stevens - yes, and M. Gildesgame - yes.

##### **2. Wetland Delineations**

Two sites have been identified, one at Dallin School and the other on Turkey Hill, as possible wetland resource areas. The former is not believed to be a resource area based on preliminary wetland delineation by C. Tirone and D. Morgan, the latter is more likely. Both will be revisited in the spring for confirmation and further evaluation.

##### **3. Wellington Park Emergency Certification Approval**

Documents reviewed: Emergency Certification - 0 Grove St - Wellington Park (11/19/21)

Marquis Tree Service removed the bridge at Wellington Park, which was heavily damaged and posed a public safety risk. The removal necessitated an Emergency Certification on November 19, 2021, prepared by D. Morgan and temporary Conservation Agent Ryan Clapp. Work was successfully completed to spec on November 20, 2021. A Conservation Commission vote is required to ratify the order.



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D. White noted that the bridge failure owed to a lack of maintenance over the years.

C. Tirone noted that the Conservation Commission is listed as the issuing authority rather than another department as is typically done. D. Morgan will file the Emergency Order with a copy of the email from the Town Manager's office stating that the bridge removal was necessitated due to a public health and safety emergency.

C. Tirone motioned to ratify the emergency certification, N. Stevens seconded. A roll call vote was taken: S. Chapnick voted yes, P. Heidell voted yes, C. Tirone voted yes, D. White voted yes, N. Stevens voted yes, and M. Gildesgame voted yes.

### **4. Public Outreach**

Updates are needed to the Conservation Commission website. Other public relations opportunities, including highlighting citizen conservation efforts, have been proposed by residents.

D. White offered to work with D. Morgan on a temporary, ad-hoc basis to brush up communications. N. Stevens offered to review any legal summaries that are part of communications efforts.

### **5. Changes to Certified Mail Requirements**

Applicants report inconsistencies with USPS certified mailings and have suggested alternatives for the period of the Covid-19 State of Emergency. Would the Commission entertain allowing certificates of mailing (as the WPA does) during the emergency (or even after)?

C. Tirone suggested that the phrasing of Arlington's regulations (which do not explicitly allow certificates of mailing the way DEP does in the Wetlands Protection Act regulations) is an oversight that should be rectified, not least because the cost to individual applicants (i.e., homeowners) is much less using certificates of mailing. P. Heidell suggested using the same language as DEP. D. Morgan noted that a change to the regulations would be needed and N. Stevens suggested that a public hearing be held at the next Conservation Commission meeting on January 20, 2022. All commissioners agreed. D. Morgan volunteered to inquire with town counsel about the public notice requirements for a regulation change and to schedule the hearing whenever is determined to be appropriate.



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*Other administrative items postponed until end of meeting.*

### **II. Hearings**

#### **1. Request for Certificate of Compliance: 54 Dothan Street DEP # 91-196**

Documents reviewed: Buffer Zone Re-Vegetation Plan for 54 Dothan Street (2008), Environmental Monitoring: 54 Dothan Street prepared by Mary Trudeau, 54 Dothan Street Partial Certificate of Compliance, WPA Form 8A: Request for Certificate of Compliance (2020)

Pursuant to a partial Certificate of Compliance (CoC) issued in 2019, the Applicant seeks a full CoC. The original Order of Conditions has been satisfied, including the three-year monitoring report required for a full CoC. The Conservation Agent recommends approval of this request.

The project is in the Buffer Zone and AURA of a Bordering Vegetated Wetland that is located entirely within the boundaries of the Town of Arlington's McClennan Park.

D. Morgan summarized the environmental monitoring report prepared by Mary Trudeau, noting that while some plantings were not viable there was sufficient volunteer vegetation to satisfy the conditions of the partial CoC. The Applicant's landscaper had been applying fertilizer and was told by the Applicant to stop in order to comply with the Order of Conditions. C. Tirone added that he had observed an additional serviceberry that was part of the planting plan that he believed was dead. The density of plantings permitted was a concern for C. Tirone and C. Garnett. P. Heidell observed that the three-year monitoring period may not have elapsed depending on when the plantings were made. D. Morgan found that the Order of Conditions did not have a monitoring requirement, rather the partial CoC, cover letter, and attendant report by the environmental monitor did commit to a three-year monitoring period. N. Stevens shared that those materials are all considered part of the Order of Conditions because the project was represented as such by the Applicant (vis a vis the report by the environmental monitor that accompanied the partial CoC application). S. Chapnick determined that the latest planting plan was submitted in 2019 and therefore not enough time has passed for monitoring. R. Kirby described that, in his experience, the custom for counting growing seasons is different for spring and fall plantings. If the plants were planted in the spring, the first growing season is the same year as the planting. If the plants were planted in the fall, the next full



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calendar year is the first growing season. N. Stevens requested clarification from the applicant and suggested postponing a decision until the January 20, 2022, Conservation Commission meeting. D. Morgan will seek the additional information. N. Stevens noted that the definition of planting season and associated timelines should be added to the town's wetland regulations when they are updated.

2. Notice of Intent: 1021 – 1025 Massachusetts Avenue  
Converted to a Working Session (see details below)  
Documents reviewed: Notice of Intent Application for 1021 – 1025  
Massachusetts Avenue prepared by LEC (2021)

Applicant proposes to demolish two (2) structures and associated driveways, parking lots, and site appurtenances, and construct a 48-unit, 5-story affordable housing condominium building (under Chapter 40B) with ground-level parking garage and retail space. Portions of the proposed project are located within the outer portion of Riverfront Area associated with Mill Brook. Site grading, a retaining wall, erosion controls, invasive species management and native revegetation, establishment of a meadow, and stormwater management are proposed.

C. Tirone asked that the Applicant clarify the reason for filing a Notice of Intent rather than coming in for a working session. P. Feldman, lawyer for the Applicant, responded that the wetlands requirements were likely the most complicated constraint to understand and thus the Applicant thought it best to file a full NOI to provide all the detail an application entails. P. Feldman acknowledged that the Applicant has not started the comprehensive permit application process as required by the Wetlands Protection Act and, as such, sought to withdraw the NOI and requested a working session. S. Chapnick explained that the working session was more appropriate since the comprehensive permitting process may alter the proposal as it is presented in the NOI. N. Stevens asked to have the public participate in the working session so as to have public input included from the start, S. Chapnick agreed. N. Stevens requested that P. Feldman request the withdrawal of the NOI in writing, to which he agreed.

R. Kirby summarized the contents of the NOI application and associated plans. M. Novak contributed an explanation of the stormwater report.

P. Heidell asked if the underground infiltration chambers could be reduced in size (e.g., by using green roof elements to retain and slowly release water). She followed up by asking if additional low-impact development



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techniques (e.g., swales) could be used on site. She requested that the Applicant run the stormwater report numbers using NOAA14+ inputs (N. Stevens concurred) and check the findings with the town engineer. M. Novak responded that he would revisit the stormwater report to consider Pam's changes but did not expect to find a sizeable difference in the needed size of the underground tanks.

N. Stevens requested additional renderings or architectural drawings of the proposed structure to better understand the shading and proposed green roof.

C. Garnett asked whether the Applicant was counting the green roof as replacement plantings. R. Kirby responded that they are not; the green roof is for climate resilience.

C. Garnett expressed concern about the plan to add shrubs under the Norway maple canopy at the rear of the building, which would not be viable in her opinion. She also suggested that the limbing required for those shrubs to persist would enhance windthrow and other undesirable effects. She suggested a shade study for the rear of the building to see where plantings would be better placed.

S. Chapnick suggested that the meadow area over the infiltration tanks could be repurposed for shrubs and trees if the engineering permits.

R. Kirby offered that off-site mitigation had been considered in a previous working session on this project. He suggested that the Applicant could contribute funding to the Mill Brook corridor restoration efforts.

P. Heidell wondered whether the abutting parking lot could be restored, or the unpaved strip next to it, but the Applicant was doubtful because it is owned by another party and regularly used.

P. Feldman requested details about Mill Brook corridor restoration efforts, including Cooke's Hollow and Meadowbrook Park. D. Morgan volunteered to send details.

D. Kaplan suggested removing the Norway Maple trees along Mill Brook entirely and starting with a new set of plantings. The Applicant had considered the idea but was concerned the Commission would not entertain it. The Commission said it would consider the idea and requested that cost estimates and a planting plan be drawn up for an



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urban native park that would be more resilient to climate change and provide improved resource area values.

C. Tirone requested that if this approach were taken, the condo association of the proposed project be assigned responsibility for maintenance of the urban native park in perpetuity. He also inquired about the purpose of the stairs next to the proposed meadow. R. Kirby clarified that the stairs are for maintenance of the vegetation next to Mill Brook.

C. Tirone requested improved erosion controls, concerned that the mulch socks would easily get lost with so much earthwork. R. Kirby said they could add an orange fence to delimit the limit of work and erosion control features.

C. Tirone asked whether the infiltration system could be put under the building. M. Novak said it was not impossible, but he would strongly advise against it. His concern was for the structural integrity of the building. C. Tirone wondered whether the infiltration tanks could be stacked to save space. M. Novak agreed to explore the idea. C. Tirone wondered whether runoff from the green roof was considered clean water. M. Novak clarified that the green roof runoff goes into the infiltration system.

S. Chapnick took a straw poll of the Commissioners to gauge interest in the option for clear cutting the Norway maple forest next to Mill Brook and replacing it as discussed with an urban native forest. All agreed it was worth exploring with the caveats already noted.

S. Chapnick requested to continue the working session to the next available meeting. P. Feldman agreed. S. Chapnick opened the public comment period.

J. Preston offered that cutting trees would exacerbate climate change, and the mature Norway maples in question are better than other vegetation at removing carbon. S. Chapnick offered to have the Tree Committee invited to the next working session for their input.

W. Evans shared her count of the number of trees that would be cut (80).

D. Seltzer asked about the location of the setback. M. Maggiore explained that setbacks surround the building which will appear as a 4-story building all the way around.



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K. Anderson shared her experience from living in east Arlington where flooding was a regular concern and asked what the Commission can do to require stormwater mitigation from the proposed development. R. Kirby clarified that the town stormwater requirements will ensure that the runoff will be diminished from predevelopment conditions.

P. Worden concurred with J. Preston's comments and asked the Commission to consider how the development relates to the suggested linear park at Mill Brook. She additionally commented that she thought the development would worsen runoff and thus flooding at Mill Brook.

C. Garnett clarified that her support for removing the Norway Maple trees considered in this project is based on Arlington's need to diversify the age and types of trees that make up the town's tree canopy, to avoid a die off of a large number of trees simultaneously.

P. Heidell wondered whether the open space next to the parking lot at 993 Mass Ave could be repurposed for mitigation, if not the parking lot itself.

S. Chapnick requested that updated materials be submitted a week prior to the January 20<sup>th</sup>, 2022, meeting, including the following:

- Alternatives for infiltration including drainage swales, rain gardens, and storage in the green roof
- Option for stacking stormwater infiltration tanks
- Recalculated stormwater report using NOAA+ and NOAA++ inputs
- Changes to erosion controls to include fencing
- architectural plans or renderings to show building size, shape, setbacks, etc.
- Cost estimate and (if feasible) plan for total replanting of Norway maple forest
- Confirmation that the abutting parking lot cannot be used for mitigation

### **III. Administrative (Continued)**

1. Enforcement Actions Related to 19R Park Avenue  
Documents reviewed: Right of Way Agreement between Housing Corporation of Arlington and Paul D. Merjanian (2016)

Conditions of an abutting property (the Citgo station at 19 Park Ave. owned by Paul Merjanian) are impacting conditions at 19R Park Avenue. The Downing Street affordable housing development will be seeking a



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Certificate of Compliance this spring. While preparing to issue the CoC, R. Clapp, S. Chapnick, and D. Morgan conducted a site visit and witnessed dumping of vegetation debris (specifically Japanese knotweed) near and/or on the 19R property. It appeared the vegetation had been removed from the Merjanian property, which is entirely within the buffer zone of No Name Brook. It has since come to light that the Arlington Housing Authority has a right of way easement on part of the Merjanian property, which is believed to be the area in question where cutting and dumping have occurred. The easement is from 2016 and stipulated that the right of way was to be cleared of all debris within 30 days and kept clear. In addition to the violation of the easement terms, there seem to be wetlands violations occurring on the Merjanian property, including cutting and dumping of vegetation. Town officers are working on a solution, including representatives from Planning and Community Development, Inspectional Services, and Town Counsel.

D. White suggested enforcement of knotweed cutting and dumping on the Merjanian property would be difficult because the town DPW conducts the same activity annually.

N. Stevens reminded the commission that a prior enforcement action had been taken against the property for the dumping of snow into No Name Brook.

S. Chapnick suggested writing a letter to the property owner. N. Stevens agreed and requested further information about any potentially unpermitted activities if they should occur.

2. Fee Schedule for Partial Certificates of Compliance  
*Postponed until January 20, 2022, meeting.*

### **IV. Water Bodies Working Group Updates**

D. White requested the Commission review the draft water bodies report and send him feedback. He mentioned that the Spy Pond management report from Solitude suggested no treatment of the pond in 2022 and the option needs to be discussed.

M. Gildesgame motioned to adjourn. Meeting adjourned 10:42 PM.